

Members

Sen. Marvin Riegsecker, Chairperson
Sen. Rose Antich
Rep. Sheila Klinker
Rep. Robert Alderman
Thomas E. Van Meter
Sylvia Brantley
Suda Hopkins
Joanne Rains
Betty Williams
Sally Lowery
Ervin Picha
Christopher Durcholz



INDIANA COMMISSION ON MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

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MEETING MINUTES¹

Meeting Date: September 27, 2001
Meeting Time: 1:00 P.M.
Meeting Place: Muscatatuck State Developmental
Center chapel
Meeting City: Butlerville, Indiana
Meeting Number: 3

Members Present: Sen. Marvin Riegsecker, Chairperson; Rep. Sheila Klinker;
Thomas E. Van Meter; Sylvia Brantley; Ervin Picha.

Members Absent: Sen. Rose Antich; Rep. Robert Alderman; Suda Hopkins;
Joanne Rains; Betty Williams; Sally Lowery; Christopher
Durcholz.

Senator Riegsecker called the meeting to order at approximately 1:10 PM. For the Commission's information, Senator Riegsecker distributed a copy of a resolution adopted by the Common Council of Madison, Indiana, regarding the continued operation of Madison State Hospital. (See Exhibit 1.)

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Representative Markt L. Lytle, District 69 (Jackson, Jefferson, Jennings)

Representative Lytle thanked the Commission for traveling to Muscatatuck State Developmental Center (MSDC) to hear concerns regarding the closure of the facility.

Representative Lytle made the following comments:

- The announced closure of MSDC has caused great concern among the center's residents, their families, employees, and the community at large, particularly because the decision to close the center, which came toward the end of the 2001 legislative session, was unexpected.
- At the time it was announced that MSDC would close, there were 1148 employees at the center. All of these jobs will be lost once the center is closed.
- All persons involved with the center agree that any resident who is capable of living in the community and wants to should have that chance. However, there is great concern over how this will happen.
- There appears to be much confusion, lack of information, or misinformation surrounding the plans for closing MSDC, with employees and residents' families often feeling overlooked. One perception of the public seems to be that when the deadline for closure (December, 2003) arrives, any remaining residents will be placed wherever there is room, no matter how appropriate, and the doors will be closed and locked.
- Officials and residents of Jennings County are concerned that once MSDC is closed, there might not be any facility in the area for the mentally retarded and/or developmentally disabled. Additionally, there is great concern that Madison State Hospital (MSH), which is currently being downsized, may eventually close as well.
- Currently, there does not appear to be an adequate supply of providers in the community to care for residents who will be moved out of the center.
- The state needs to be sure to take care of the employees of MSDC who have devoted many years of their lives to providing quality care to the state's disabled population.
- MSDC can be closed by the stated deadline, but there is concern whether it can be done properly in this time frame. The best idea would be to remove the deadline and take as long as necessary to prepare the necessary community supports and to get the residents ready for the transition to new locations.
- MSH has a very good history of providing care for mentally ill individuals, but individuals with mental retardation and/or developmental disabilities are a different type of population and mixing these populations in one facility, as has been proposed by the suggestion that MSH serve as the southeast regional care facility, could cause problems. A better idea might be to have separate facilities specifically devoted to serving only one population type. While it would most likely be more expensive to operate two facilities instead of one, this idea would probably help to meet the federal government's apparent objective of serving individuals outside of large institutional facilities.
- A regional center for serving the mentally retarded/developmentally disabled should be located in Jennings County so that MSDC residents who have lived there for a long time and who are profoundly disabled and/or medically fragile would have less of a transition to make and some jobs that could be filled by individuals who have worked at MSDC could remain in the community.

John G. Hall, Mayor, North Vernon

Mayor Hall made the following comments to the Commission:

- Jennings County's workforce has a great deal of experience in providing care for the mentally retarded/developmentally disabled.
- St. Vincent's/Columbus Regional Hospital is building a \$14 million facility in Jennings County. It would be a good idea to build a 100-bed regional facility for the mentally retarded/developmentally disabled near this new facility, where medical personnel would be readily available to treat residents. There is even a possibility that the state could purchase an existing structure located near the new hospital facility that was previously a nursing home.
- The state is planning on spending \$7 million to prepare MSH to take in residents with mental retardation/developmental disabilities. These funds could instead go towards building or renovating a facility in Jennings County.
- The residents of MSDC are different from those individuals who were relocated from the New Castle State Developmental Center (NCSDC) when it closed as MSDC residents are generally more profoundly disabled and medically fragile. Based on conversations between the mayor and community service providers, there are currently approximately between 60 and 100 MSDC residents who cannot be properly supported in the community due to the severity of their disabilities.
- If done properly, the regional care facility developed in the southeast portion of the state could be a model for the rest of the state.
- The deadline for closing MSDC will be difficult to meet unless a model plan for the regional center is unveiled soon for comment.

Travis Campbell, Executive Director, and Trevor Lane, Jennings County Economic Development Council (JCEDC)

Mr. Campbell and Mr. Lane told the Commission that the JCEDC has been working with MSDC employees in finding new employment. Family and Social Services Administration (FSSA) has provided \$500,000 towards retraining of MSDC employees. Both Mr. Campbell and Mr. Lane echoed the sentiment that the interests of the center's residents must come first. Mr. Campbell stated that the deadline for the closure of the center will not allow enough time to find alternate employment for all of the MSDC employees.

Chuck Martindale, Indiana Department of Commerce

Mr. Martindale informed the Commission that the Department of Commerce currently has no specific plan for the use of the MSDC property after the center is closed. The department is currently waiting for the FSSA and the Department of Administration (DOA) to complete engineering and infrastructure surveys to determine the property's capacities. Once these surveys are completed, the department will work with local officials to find viable alternative uses for the center.

Pat Vercauteren, Indiana Department of Workforce Development (DWD)

Mr. Vercauteren commented that the MSDC workforce is made up of individuals of diverse experiences, skills, and occupations and that there is a critical need in all communities for health care workers. He noted that many individuals who have previously been employed at MSDC have gone on to work in the private sector, providing care for individuals in community settings. He stated that while it may not be possible to find alternate employment for all MSDC workers before the center is closed, it is DWD's goal to cooperate with other state agencies and community colleges to get each worker on a track to improve his or her educational level and earning potential within that time frame.

Steve Cook, Deputy Director, Bureau of Developmental Disabilities Services, Division of Disability, Aging, and Rehabilitative Services (DDARS), FSSA

Mr. Cook informed the Commission that FSSA has entered into a settlement agreement with the United States Department of Justice (DOJ) regarding the operation of MSDC and Fort Wayne State Developmental Center (FWSDC). As part of this agreement, FSSA has agreed to implement a state developmental center plan by February, 2002. The plan addresses issues such as increasing staffing ratios and establishing and maintaining quality assurance processes. Under the agreement, the DOJ can continue to monitor MSDC, FWSDC, and residents who move out of the centers until May, 2003. The DOJ visited both MSDC and FWSDC in March, June, and July of this year. Although formal reports on these visits have not yet been provided to the state, FSSA has had discussions with providers to address issues raised by DOJ inspectors during exit conferences. DOJ's next visit is expected in January, 2002. Mr. Cook stated that the DOJ is not pushing the state to close either MSDC or FWSDC, but is advocating that the state provide high quality services to individuals in both institutional and community settings. He also noted that the DOJ has provided FSSA with information regarding what other states are doing in the area of providing services to the mentally retarded/developmentally disabled, but is not advocating that Indiana take any particular approach.

Dan Mohnke, FSSA consultant

Mr. Mohnke noted that there are three levels of transition taking place in the closure of MSDC and the downsizing of MSH: clients and families, employees, and communities. Mr. Mohnke commented that the regional services center is still very much in development and although there has been much discussion regarding the center, there are still many decisions yet to be made. He provided the Commission with a handout detailing the recommendations of the Southeast Region Configuration Work Group. (See Exhibit 2.)

Juman Bruce, Superintendent, MSDC

Ms. Bruce informed the Commission that since the announcement of the closure of MSDC, the center has lost 107 employees and has moved 33 residents to other placements, leaving 246 residents. Most of the employees who have left have been support staff (e.g., clerical and maintenance), not direct care staff. There are currently discussions under way regarding consolidating some areas of MSDC and redistributing some services to help prepare the remaining residents for their future transition out of MSDC.

Patty Cook, Director of Social Services, MSDC

Ms. Cook told the Commission that of the 33 residents who have been relocated from MSDC since the closure was announced, 14 have been placed in supported living environments, 14 in group homes, and two in alternate families for adults settings. Most of these individuals were placed in settings outside the immediate vicinity of MSDC. The remaining three individuals were transferred to MSH. There are 118 residents who, along with their families or other representatives, are currently in the process of planning for their transition from MSDC. Direct care staff are also involved in this planning process. Ms. Cook noted that the December, 2003, deadline for closing MSDC is aggressive, but achievable.

Frank Migliano, President, MSDC ARC, and parent of MSDC resident

Mr. Migliano commented that parents of MSDC residents have often been overlooked in the process of closing MSDC and planning for a regional services center. He stated that neither the Americans with Disabilities Act nor the U.S. Supreme Court's decision in *Olmstead* requires the state to close any institutional care facilities. He told the Commission that two years is not enough time for closing MSDC because there are currently no adequate alternate facilities. He noted that the MSDC ARC is planning on filing a lawsuit to prevent the state from closing MSDC and that Florida has recently had to spend \$500,000 to correct problems that were created by closing institutions too quickly. Mr. Migliano stated that if the state is going to close MSDC, it needs to be done correctly and that there is currently no comprehensive plan for serving the residents who will be moved out of MSDC. He noted that most of the remaining residents of MSDC are profoundly retarded (i.e., having the mental capacity of a 2 ½-year-old child) and/or are medically fragile and that any plan implemented by FSSA must maintain some sort of safety net for those individuals who cannot be properly supported in the community. He remarked that there needs to be a specific training standard, higher wages, proper oversight, and required background checks for individuals who provide care in community settings.

Mary Mills, 10-year MSDC employee

Ms. Mills stated that many MSDC employees are afraid to talk to anyone about the closure of the facility for fear of being harassed or fired. She noted that many employees are concerned that residents are being forced to move out of the center against their will, possibly even being deceived or treated improperly (e.g., medicated) in order to be moved. Ms. Mills told the Commission that she and other direct care staff workers are no longer being consulted in the transition process for the residents they provide care for. She stated that she and many other MSDC employees would be willing to follow MSDC residents into their new community placements to be able to continue to provide care for them rather than have someone who is completely unfamiliar with the resident's particular abilities and needs care for them. She remarked that there are some residents who will continue to need to reside in a hospital-type setting with medical care available on the premises 24 hours a day.

Frances Egner, parent of MSDC resident

Ms. Egner reminded the Commission that many of the MSDC residents are very fragile and that the shock of moving might very well cause their deaths. She noted that the residents are human beings, not furniture, and cannot be moved around easily. She told the Commission that she had decided on a nursing home as an alternate placement for

her daughter but was turned down. She expressed concern over the quality of care that her daughter would be able to receive in a community setting.

John Dickerson, Executive Director, The ARC of Indiana

Mr. Dickerson reminded the Commission that the original plan for closing NCSDC, whose residents were generally less severely disabled than those at MSDC, called for the process to take 12 months, but in reality, it took 15 months. He commented that the key to closing MSDC is to closely monitor what's happening and to not move any resident out until the necessary supports are in place for that person. He noted that there is currently no agreement on where the southeast regional center will be located or what it will look like but that the center should be more than just a building. It should serve as a resource for individuals and their families to find needed services. One possibility that has been raised is having a two-tiered approach, with one category dealing with individuals who require 24-hour care and another category dealing with individuals who require less extensive community supports. He observed that MSDC has done an initial evaluation of all remaining residents and almost all of them will require 24-hour care, with some of them requiring 2-on-1 care around the clock. Mr. Dickerson also noted that it is important to remember that MSDC must maintain its Medicaid certification while it is still in operation.

Costa Miller, Executive Director, Indiana Association of Rehabilitation Facilities

Mr. Miller noted that FSSA is working hard to close MSDC in the best way possible but expressed concern over the manner in which the decision to close MSDC was made. He also noted that there may be a problem in funding all the community services that will be necessary to provide for the residents who move out of MSDC, but that the funding should be adequate for the next two to four years if the federal government approves FSSA's new developmental disabilities Medicaid waiver. This waiver would allow some individuals to be served under Medicaid, thus freeing up state dollars to serve others.

There being no further business to come before the Commission, Senator Riegsecker adjourned the meeting at approximately 3:40 PM.